

ESTTA Tracking number: **ESTTA434312**

Filing date: **10/06/2011**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	77819705
Applicant	J. Patrick Berry
Applied for Mark	SCORED NOVELLA
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Submission	Motion to Consolidate
Attachments	consolidate.PDF (2 pages)(51031 bytes)
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Date	10/06/2011

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

Applicant : J. Patrick Berry
Serial No. : 77/834,681
Mark : **SCORED STORY**
Filed : September 25, 2009
Our Ref. : 006910.4863

Applicant : J. Patrick Berry
Serial No. : 77/834,686
Mark : **SCORED NOVEL**
Filed : September 25, 2009
Our Ref. : 006910.4864

Applicant : J. Patrick Berry
Serial No. : 77/834,679
Mark : **SCORED SHORT STORY**
Filed : September 25, 2009
Our Ref. : 006910.4862

Applicant : J. Patrick Berry
Serial No. : 77/819,705
Mark : **SCORED NOVELLA**
Filed : September 3, 2009
Our Ref. : 006910.4853

MOTION TO CONSOLIDATE

Applicant, J. Patrick Berry ("Applicant"), by his undersigned counsel, hereby respectfully moves the Trademark Trial and Appeal Board ("Board") for an order pursuant to T.B.M.P. § 511 to consolidate the above-identified ex parte appeal proceedings into a single proceeding. The above-identified proceedings involve identical parties, and common questions of law and/or fact. Therefore, consolidation will save time, effort and expense, and will not cause any prejudice or inconvenience to either the Examining the Attorney or Applicant.

The parties in the above-identified proceedings are the same. On September 3, 2009, Applicant filed a trademark application for SCORED NOVELLA (Serial No. 77/819,705). On September 25, 2009, Applicant filed trademark applications for SCORED SHORT STORY (Serial No. 77/834,679), SCORED STORY (77/834,681) and SCORED NOVEL (77/834,686).

Certainly, the marks at issue are substantially similar, as are the Examining Attorney's grounds for refusing registration of the marks. The marks at issue each contain "SCORED"; specifically, the marks at issue are SCORED NOVELLA, SCORED SHORT STORY, SCORED STORY and SCORED NOVEL. All of the trademark applications cover the same goods, namely, "[a]udio books, namely, pre-recorded CDs, audio cassettes and downloadable e-books,

featuring fictional or non-fictional stories and music specially adapted such that the customized spoken narrative is paired with different variations of music based on the desired interpretation of the audio book” in International Class 9. The Examining Attorney has refused registration on the basis that each of the marks at issue is merely descriptive, i.e., that each of the marks directly describes Applicant’s goods identified in the application. Applicant submits that none of the marks is descriptive of Applicant’s goods, but rather, that they are suggestive of the goods.

In view of the foregoing, the proceedings should be consolidated. Consolidation would save time, effort and expense for the Board, the Examining Attorney and Applicant, and should not cause any prejudice or inconvenience.

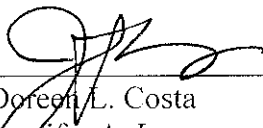
WHEREFORE, Applicant respectfully requests that the Board consolidate the above-identified ex parte appeal proceedings into a single proceeding.

Respectfully submitted,

BAKER BOTTS L.L.P.

Date: September 6, 2011

By:



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